THE CONVEYANCER AND PROPERTY LAWYER

AUSTRALIA
The Law Book Co. of Australasia Pty Ltd.
Sydney : Melbourne : Brisbane

CANADA AND U.S.A.
The Carswell Company Ltd.
Toronto

INDIA
N. M. Tripathi Private Ltd.
Bombay

NEW ZEALAND
Sweet & Maxwell (N.Z.) Ltd.
Wellington

PAKISTAN
Pakistan Law House
Karachi

THE CONVEYANCER

AND

PROPERTY LAWYER

EDITORS

EDWARD F. GEORGE, LL.B.

Solicitor of the Supreme Court

ERNEST H. SCAMELL, LL.M.

of Lincoln's Inn, Barrister-at-Law

VOLUME 24

(New Series)

LONDON

SWEET & MAXWELL LIMITED

11 NEW FETTER LANE

1960

PRINTED IN GREAT BRITAIN
BY
THE EASTERN PRESS LTD.
OF LONDON AND READING

ARTICLES AND NOTES IN VOLUME 24

ANCIENT LIGHTS FOR AN OFFICE. By A. H. Hudson .. 424
BUILDING SOCIETIES ACT, 1960. By Richard Scott .. 494
CHARITIES ACT, 1960. By Spencer G. Maurice 390
CONVERSION UNDER A CONTRACT FOR THE SALE OF LAND. By Philip H. Pettit 47
CONVEYANCER'S NOTEBOOK .. 1, 85, 165, 257, 337, 449
CREATION OF REVERSIONARY LEASES. By J. A. Andrews 462
DIRECTORS: CONFLICT OF INTEREST AND DUTY. By J. R. Lingard 170
FINANCE ACT, 1960. By John Cherryman 340
GIFTS TO NON-CHARITABLE BODIES. By E. O. Walford .. 278
GIFTS VIRTUTE OFFICII TO DONEES OF A CHARITABLE CHARACTER. By V. T. H. Delany 306
MODERN LAW OF AGRICULTURAL HOLDINGS. By J. Muir Watt 26, 130, 179, 288, 359, 479
NATIONAL INSURANCE ACT, 1959, AND THE EFFECT ON PRIVATE PENSION SCHEMES. By Price Forbes (Life and Pensions) Ltd. 92
NOTES OF RECENT CASES:
Charities 73, 153, 244, 519
Landlord and Tenant .. 77, 154, 246, 325, 434, 520
Miscellaneous 331
Planning 252, 442
Real Property and Conveyancing 68, 147, 237, 319, 428, 518
Revenue 158, 251, 329, 440
Trusts 69, 151, 240, 322, 432
Wills 74, 245, 324
OFFICE OF CUSTODIAN TRUSTEE. By Spencer G. Maurice 196
PURCHASING A MAISONETTE. By Edward F. George .. 484
RENTCHARGES IN REGISTERED CONVEYANCING. By Theodore B. F. Ruoff 8, 101, 211, 259, 375
RIGHTS IN A HIGHWAY. By J. F. Garner 454
SALE BY THE EXECUTOR OF A TENANT FOR LIFE OF SETTLED LAND. By Sir Lancelot Elphinstone .. 43, 314
TENANT UNDER AN AGREEMENT AND S. 146 OF THE LAW OF PROPERTY ACT, 1925. By Philip H. Pettit 125
WAYS OF NECESSITY. By J. F. Garner 205

BOOKS REVIEWED IN VOLUME 24

Ash: Estates Gazette Digest 334
Birks: Gentlemen of the Law 333
Corfield: Compensation 254
Current Legal Problems, 1960 512
Cutler Jones: Income Tax Maintenance Relief and Agricultural Allowances 162
Easton: Rentcharge Conveyancing 511
Emmet: Title, Supplement 255
Encyclopedia of Compulsory Purchase and Compensation 444
Encyclopedia of Planning Law and Practice 444
Fridman: Agency 255
Garner: Sewers and Drains 447
Garner: Slum Clearance and Compensation 163
Graham: Covenants, Settlements and Taxation 84
Grundy: Money at Work 511
Hames: Applications under s. 17 of the Married Women's Property Act 84
Hamilton: Solicitors' Guide to Development and Planning 256
Hanson: Death Duties, Supplement 163
Hill and Redman: Landlord and Tenant, Supplement .. 84
Hudson: Building Contracts 80
Jackson and Muir Watt: Agricultural Holdings, Supplement 335
Keeton and Schwarzenberger: Current Legal Problems .. 163
Megarry and Wade: Real Property 82
Newport and Plunkett: Income Tax, Supplement .. 84
Oyez Tables Nos. 13, 14 448
Parry: Sanctity of Contracts 84
Perkins: Buying a House 335
Preston and Newsom: Restrictive Covenants 447
Robinson: Conveyancing Costs 334
Roddis: Caravans 447, 523
Ruoff: Land Registration Practice 83
Russell-Clarke: Copyright in Industrial Designs 162
Schless: Town and Country Planning Act, 1959 163
Sheridan and Delany: Cy-près Doctrine 81
Walford: Contracts and Conditions of Sale of Land, Supplement 255
Williams: Executors 446
Williams: Title, Supplement 84

TABLE OF PRECEDENTS

IN VOLUMES 21–24

	VOL.	PAGE
ADVANCEMENT		
Power of	xxii	774
AGREEMENT		
Agreement between contractor and sub-contractor regulating their position and preventing exploitation	xxii	686
Agreement between estate owners holding land (at present let) on trust for sale not to sell except with vacant possession ..	xxii	663
Agreement between owner and developer for development and realisation of land	xxiii	733
Agreement between shareholders to secure that control shall remain with them or survivor	xxi	721
Agreement for employment of assistant solicitor	xxiii	651
Agreement for marketing products to be manufactured from a newly invented machine	xxii	657
Agreement for servicing of machinery	xxi	719
Condition making assent to trustees for sale conclusive evidence thereof	xxiii	759
Option agreement between two of three shareholders (who between them hold all the share capital) to secure that on the death of one of them full protection will be secured to the others	xxii	783
Quarrying agreement	xxii	723
AGREEMENTS FOR SALE OF LAND, ETC.		
Agreement for sale by a parish council of a building plot adjacent to land which is retained	xxii	731
Agreement for sale (by way of long lease) of plot of land with contract to build houses thereon	xxi	651
Agreement for sale of part of a large house which the vendor has contracted to purchase and which he is to convert into separate dwellings	xxii	698
APPROPRIATION		
Deed of appropriation under the statutory power in satisfaction of an annuity, a settled share of residue, and the interests of residuary legatees, one of whom is an infant	xxii	745
ASSENTS		
See also AGREEMENT		
Assent by executors to vesting in themselves on trust for sale of freehold property appropriated to the share of an infant in the proceeds of sale of residuary realty	xxi	749
Assent to vesting of businesses and premises where beneficiary required to bear proportion of estate duty and discharge debts and liabilities	xxiii	662

	VOL.	PAGE
ATTORNEY, POWERS OF		
Power of attorney by vendor authorising purchaser's solicitor to execute conveyance or transfer	xxii	722
BANKRUPTCY		
Deed of compromise made between a trustee in bankruptcy and a creditor compromising claims each has against the other in the estate of the bankrupt	xxii	667
CHARGES AND MORTGAGES		
Assignment of mortgage debt and transfer of mortgage by two deeds, the amount paid for the mortgage debt being kept off the title	xxii	651
Collateral security for payment of rent by company under a lease where continued ability to pay rent depends upon continued life of managing director	xxiii	765
Deed of enlargement by trustees of the estate of a deceased mortgagee where the right to redeem has become statute-barred	xxii	790
Legal charge by way of substituted security to accompany deed of exchange	xxii	781
Mortgage by a trader of his business premises and goodwill together with an insurance policy on his life with provisions for repayment by instalments	xxiv	654
Second charge on freehold property deferring payment of interest until all capital has been repaid by instalments	xxi	686
Conveyance by joint tenants, one of whom became bankrupt after contract but before completion, his trustee in bankruptcy joining in	xxiv	651
Building Contract		
Mortgage by builder developing freehold land by the erection of dwelling-houses with provision for releasing the dwelling-houses on completion and sale	xxii	712
Shares		
Agreement for loan secured by deposit of shares and blank transfer	xxi	712
Mortgage of fully paid shares and bearer bonds	xxii	684
Mortgage of shares in private company where the right to transfer shares is restricted and on the holder desiring to transfer the shares the other shareholders have an option to purchase	xxii	679
Mortgage of shares providing for principal moneys to be repaid by instalments	xxiii	761
CHARITIES		
Declaration of trust to constitute a Talmud Torah	xxiii	745
Trust deed for giving effect to directions for setting up charity contained in will	xxiii	743

	VOL.	PAGE
COMPANIES		
See also OPTION		
Agreement between shareholders to secure that control shall remain with them or survivor	xxi	721
Agreement for mutual protection of co-directors one of whom is not actively engaged in business of company	xxiii	730
Co-operative shareholding agreement and declaration of trust	xxiii	727
Deed of covenant between two persons to create a private company with provisions for finding the capital and generally regulating their rights	xxii	669
Option agreement between two of three shareholders (who between them hold all the share capital) to secure that on the death of one of them full protection will be secured to the others	xxii	783
Provision in articles enabling director to appoint alternate director	xxi	746
Service agreement for managing director of company	xxi	752
CONVEYANCES AND ASSIGNMENTS		
Agreement for enabling a trader to obtain finance by assignment of existing book debts	xxiii	772
Assignment by mortgagee under power of sale where mortgagee granted underlease under which property held	xxi	738
Conveyance of freehold lock-up garage	xxiii	708
Conveyance of freehold premises originally held for a long term which has been enlarged into a fee simple, the original lease having been lost	xxiv	776
Conveyance of freehold property parts of which are held by two different sets of trustees on distinct trusts, and the remainder by personal representatives	xxiv	772
Conveyance where uncompleted sales subject to a mortgage between three companies (two of which are in liquidation), mortgagee joining in	xxiii	654
EASEMENTS		
Deed of grant of right of way over a private road the subsoil in which is claimed by the grantor	xxiv	670
Drainage agreement for installation of, and grant of rights over, new drain with covenants for maintenance	xxiii	698
Mutual grants of rights of way over land between two houses to permit adjoining lessees to drive motor-vehicles over such land to garages at the rear	xxiv	725
EMPLOYEE		
Service agreement for infant artiste	xxi	734
Service agreement for managing director of company	xxi	752
ENLARGEMENT		
Deed of enlargement by trustees of the estate of a deceased mortgagee where the right to redeem has become statute-barred	xxii	790

	VOL.	PAGE
EXCHANGE		
Deed of exchange between tenants in common and joint tenants, a sum being paid by the joint tenants for equality of exchange, the mortgagee of the joint tenant's property concurring to release it from the charge. Variations where the property taken in exchange by the joint tenants is to be substituted as security for the mortgage debt	xxii	777
FAMILY ARRANGEMENT		
Deed of family arrangement and release between members of a family company and accompanying trust deed	xxi	659
Deed of family arrangement between beneficiaries under a will to permit an unauthorised mortgage of settled land ..	xxii	688
Deed of family arrangement between next-of-kin of an intestate whereby surviving husband takes entire estate subject to obligation to devise freehold estate to surviving daughter ..	xxi	749
Deed of family arrangement converting contingent interests into vested interests, the rights of the parties on a possible intestacy being preserved as protection against claims by non-parties. Variation when issue are to take on failure of contingent interests	xxiv	666
Deed providing for division of capital money between tenant for life and remainderman and release to the trustees ..	xxiv	769
HIRE AND HIRE-PURCHASE		
Deed regulating the discounting of hire-purchase and similar agreements	xxiv	712
JOINT TENANCY		
Statutory declaration that no severance in equity of joint tenancy ever took place	xxi	691
LANDLORD AND TENANT		
Agreement as to factors required to be ascertained for calculation of rent limit of controlled houses	xxi	732
Agreement as to rateable value for purposes of decontrol provisions of Rent Act, 1957	xxi	732
Agreement of tenant to adjustment in rent in respect of services and furniture	xxi	728
Agreement under section 17 of Rent Act, 1957	xxi	725
Claim by outgoing tenant for compensation in respect of improvements	xxi	729
Landlord's notice in reply to tenants' claim for compensation in respect of improvements	xxi	730
Notice by landlord of adjustments in rent in respect of services and furniture	xxi	726
Notice to quit furnished tenancy	xxi	729
Notice to superior landlord of claim by subtenant for compensation in respect of improvements	xxi	731

	VOL.	PAGE
LEASES AND TENANCIES		
Forestry lease	xxi	698
Agricultural Tenancies		
Agreement for one and a half years	xxi	685
Agreement from year to year	xxi	683
Building Lease		
Deed poll to govern a series of building leases by sub-demise and model form of underlease	xxii	760
Covenants in Leases		
Covenant against assigning, charging, underletting or parting with possession	xxi	749
Variable rent clause	xxiv	665
Variable rent clause for periodic variations	xxiii	707
Of Flat		
Lease of flat for 999 years at a premium	xxiii	689
Lease of flat with services at a principal and a service rent varying with the cost of services	xxii	695
Lease of service flat at a premium and ground rent for long term	xxi	671
Of House		
Lease of premises decontrolled by the Rent Act, 1957, to the same tenant, determinable on the tenant's death or upon her ceasing to reside in the premises	xxii	653
Tenancy agreement giving "reasonably equivalent" security of tenure	xxi	726
Of Trade Premises		
Lease of property for three years for business purposes avoiding operation of Part II of Landlord and Tenant Act, 1954	xxi	723
Of Wayleave Rights		
Lease of wayleave rights in respect of a railway siding	xxii	703
LICENCE		
Licence to avoid operation of Part II of Landlord and Tenant Act, 1954 xxii 771;	xxiv	738
Licence to park caravan in field	xxi	707
OPTION		
Agreement to grant new company option to purchase company's business and take lease, new company to be formed and controlled by third company which provides part of purchase money and guarantees completion, new company to take over pension scheme	xxiii	715

	VOL.	PAGE
PARTITION DEED		
Deed of partition of shares	xxiv	737
REGISTERED LAND		
Application for cancellation of notice of an unregistered rentcharge	xxiv	753
Charge by way of substituted security of rentcharge	xxiv	759
Grant by developer to builder of separate rentcharges on each plot of an estate	xxiv	763
Grant of a rentcharge charged on another rentcharge	xxiv	733
Partition by co-registered proprietors of block of flats	xxiii	749
Transfer in consideration of an improved rentcharge of part of the land in a title discharged from a registered charge and exonerated from a prior rentcharge	xxiv	754
Transfer of a building plot being part of the land in a title in consideration of a rentcharge	xxiv	699
Transfer of a building plot being part of the land in a title subject to a rentcharge which has already been apportioned	xxiv	768
Transfer of a rentcharge	xxiv	730
Transfer of one or more of several rentcharges comprised in one title	xxiv	731
Transfer of part of a rentcharge	xxiv	732
Transfer of part of the land in a title discharged from a registered charge but subject to a rentcharge which is informally apportioned	xxiv	761
Transfer of part of the land in a title in consideration of a rentcharge but free from an overriding rentcharge	xxiv	707
Transfer of part of the land in a title subject to a rentcharge the entirety of which is charged on the land transferred	xxiv	711
Transfer of part of the land in a title subject to a rentcharge which is formally apportioned	xxiv	705
Transfer of part of the land in a title subject to a rentcharge which is informally apportioned	xxiv	703
Transfer of part of the land in a title subject to an existing rentcharge	xxiv	766
Transfer of upper flat in converted house together with part of the garden and a garage	xxiv	743
RELEASE		
Deed of release by a mortgagee releasing the deceased mortgagor's estate from all claims under the mortgage to enable distribution to be made without making provision for the mortgage liability	xxiv	685
Deed releasing one of three joint and several sureties of several mortgages affecting different properties and substituting new surety	xxi	656
SETTLEMENTS		
Assignment of educational policies of assurance to trustees for the education of the assignor's children	xxiv	672
Bahamian settlement	xxiii	666

SETTLEMENTS—*continued*

	VOL.	PAGE
Schedule setting out additional trusts, powers and provisions	xxii	750
Settlement of freeholds on trusts of existing realty settlement	xxi	743
Settlement of income of shares on discretionary trusts for the benefit of an adult beneficiary with provisions envisaging a sub-settlement of surplus income so as to secure its accumulation, with declaration of trust	xxiv	779, 783
Settlement of income resulting to settlor under invalid provisions of previous settlement	xxiii	746
Settlement of investments on present and future children of the settlor designed to save estate duty, income tax and surtax	xxii	737
Settlement on trust for sale of house in consideration of weekly sum to settlor for life, reserving right to reside in house and option to repurchase if default made	xxiii	685
Settlement to avoid income tax and surtax for the benefit of the settlor's children and issue who are to take vested interests in the capital by instalments	xxiv	688
Settlement upon grandchildren of investments consisting mainly of shares in settlor's private company	xxi	772

STATUTORY DECLARATION

See also JOINT TENANCY

Statutory declaration relating to missing title deeds	xxii	788
Statutory declaration to accompany deed of enlargement by trustees of a deceased mortgagee where the right to redeem has become statute-barred	xxii	792

SUPERANNUATION

Non-contributory pension scheme	xxiv	675

SURRENDERS

Surrender and release by tenant for life in remainder of his interest	xxiii	759
Surrender of current tenancy within meaning of section 26 (1) of Landlord and Tenant Act, 1954	xxi	668

TRUSTS AND TRUSTEES

Clauses for controlling trustees' powers	xxiii	681
Declaration of trust to establish a group life assurance scheme	xxiii	659
Trust deed by persons holding moneys collected by public subscription for the purpose of establishing a memorial fund for prizes for student nurses at various hospitals	xxii	708

WILLS

1. CLAUSES

ANNUITIES

Clause in will for payment by trustees of weekly sum to housekeeper-companion so long as she is not maintained by a local or similar authority	xxii	694

WILLS (1. Clauses)—*continued*

	VOL.	PAGE
Charitable Trusts		
Bequest of legacies to charities, empowering executors to decide any question as to the identity of the charities intended ..	xxiv	669
Death Duties		
Clause to avoid payment of estate duty on the death of a beneficiary under a will within a short time of the testator's death	xxii	666
Residuary Estate		
Clause postponing vesting of capital and right of grandchildren to receive income until twenty-five	xxi	715
Specific Devises		
Clauses making provision for a residence for the testator's wife and for continuance of a service tenancy	xxiv	722
2. Precedents		
Of Bachelors and Spinsters		
Will giving property to brothers resident in enemy territory or their issue whose present addresses are unknown and it is uncertain whether they are still living	xxi	741
Of Married Persons		
Will of small businessman providing for wife and then for relative and employees in the business	xxiv	734
Will of testator providing for his wife and for a daughter who is not over-careful with money	xxiv	661
Of Widows and Widowers		
Will of widower leaving residuary estate to children for life and then to their children	xxi	693

LIST OF CASES NOTED IN VOLUME 24

Aberfoyle Plantations *v.* Cheng, 147
Ackroyd *v.* Hasan, 321
Airport Restaurants *v.* Southend-on-Sea Corporations, 437
Allen's Settlement, *Re*, 71

Baker *v.* Merckel, 250
Bankes *v.* Salisbury Diocesan Council of Education, 319
Barclays Bank *v.* Naylor, 441
Beesly *v.* Hallwood Estates, 328
Belfast Corporation *v.* D. O. Cars, 252
Boulton, *Re*, 329
Burdett-Coutts *v.* C. I. R., 440

C., *Re*, 152
Caunter's Charge, *Re*, 69
Chung Kwok Hotel Co. *v.* Field, 510
Clitheroe's Settlement Trusts, *Re*, 72
Cocke, In the estate of, 324
Cohen, *Re*, 76
C. I. R. *v.* Bernstein, 240
Compton *v.* Compton, 322
Cook, In the estate of, 245
Cotterell *v.* Price, 507
Crown Lands Commissioners *v.* Page, 435

Diamond *v.* Campbell-Jones, 238
Douglas's Will Trusts, *Re*, 75
Duple Motor Bodies *v.* C. I. R., 330

Elmdene Estates *v.* White, 156
Endacott, *Re*, 73
Evans *v.* Roper, 434

French *v.* Elliott, 155

Gardner *v.* Blaxill, 438
Ghana Commercial Bank *v.* Chandiram, 431
Gladstone *v.* Bower, 77, 520
Green *v.* Bowes-Lyon, 246
Grey *v.* C. I. R., 69
Grosvenor Place Estates *v.* Roberts, 251

Hambledon's Will Trusts, *Re*, 151
Harpur's Will Trusts, *Re*, 508
Hasham *v.* Zenab, 149
Hochstrasser *v.* Mayes, 158

Isaac *v.* Hotel de Paris, 246
Iveagh *v.* Martin, 429

Jaquin *v.* Holland, 248
Jewish Orphanage Endowment Trusts, *Re*, 244
Jones *v.* Challenger, 240

Keats *v.* Graham, 157
King *v.* Cave-Brown-Cave, 439
Krawitz's Will Trusts, *Re*, 74

Legge *v.* Matthews, 247
Levy, *Re*, 153
Little, In the estate of, 325
Longmuir *v.* Kew, 437

Marshall *v.* Nottingham Corporation, 442
Mascherpa *v.* Direct, 325
Marstz, *Re*, 72
Mounsden *v.* Weymouth and Melcombe Regis Corporation, 253

Neeld, *Re*, 323

Oughtred *v.* C. I. R., 70

Parker *v.* Clark, 150
Parker *v.* Lord Advocate, 161
Peak *v.* Burley Golf Club, 331
Pike *v.* Nairn & Co., 326
Public Trustee *v.* C. I. R., 160

R. *v.* Dorset Quarter Sessions, 443
R. *v.* Minister of Housing and Local Government, 443
Robertson's Will Trusts, *Re*, 433
Royal College of Nursing *v.* St. Marylebone B. C., 74

St. Swithin's, Norwich, *Re*, 68
Samson *v.* Samson, 239
Silvester *v.* Ostrowska, 78
Steed's Will Trusts, *Re*, 242
Strand and Savoy Properties, *Re*, 327
Strand Building Society *v.* Delamont, 237
Stylo Shoes *v.* Prices Tailors, 154

Taylor *v.* Ellis, 237
Tinker's Settlement, *Re*, 432

Unit Construction Co. *v.* Bullock, 158

Walls *v.* Peak, 331
Wilkins *v.* Rogerson, 251
Windsor Refrigeration Co. *v.* Branch Nominees, 428
Wine Shippers (London) *v.* Bath House Syndicate, 326, 520